

PROPOSAL 1 — Amend Rule 6-3.6

Rev A (December 5, 2007)

Added text is double underlined. Deleted text is ~~struck through~~.

6-3 Commission Authority

6-3.1 Commission Relationship to Collective Bargaining *[No Change]*

6-3.2 Prohibited Subjects of Bargaining *[No Change]*

6-3.3 Incorporation by Reference *[No Change]*

6-3.4 Modification after Approval *[No Change]*

6-3.5 Modification of Agreement or Arbitrator's Decision *[No Change]*

6-3.6 Rules of General Applicability during Term of Agreement

~~In the event of (1) a natural or other disaster, (2) an act of war, riot, insurrection, or terrorism, or (3) other unforeseen emergency, the civil service commission retains the authority to approve rules of general applicability during the term of any collective bargaining agreement and to apply the rules immediately to all classified employees, including employees covered by the agreement and parties to the agreement, notwithstanding any contrary provision of the agreement.~~

(a) Rule effective during term of agreement. During the term of a collective bargaining agreement, a rule of general applicability ~~may~~becomes immediately effective as to the employees covered by the agreement and the parties to the agreement if the following procedures are complied with:

(1) Notice of pending rule. ~~If reasonable to do so, the state personnel director shall issue a prior written notice to the state employer and the exclusive representatives. The notice must state that the proposed rule of general applicability, if approved by a unanimous vote of a quorum of the civil service commission, may~~becomes immediately effective as to all employees covered by the agreement and parties to the agreement, notwithstanding any contrary provision of the agreement.~~The notice must provide at least 14 calendar days advance notice, as provided in rule 1-1.1 [Circulation of Proposed Amendments for Comment].~~

(2) Meet and discuss. The parties to a collective bargaining agreement potentially affected by a proposed rule of general applicability may meet and discuss the proposed rule and may jointly or separately advise the civil service commission regarding the proposed rule.

1 **(3) Approval of rule.** When the civil service commission approves a rule of general
2 applicability, the commission ~~shall~~must also approve a separate resolution stating
3 (1) the commission's reasons for enacting the rule of general applicability and (2) that
4 the rule is immediately effective as to all employees covered by a collective bargaining
5 agreement and parties to the agreement, notwithstanding any contrary provision of the
6 agreement. If both the separate resolution and the proposed rule of general
7 applicability are approved by unanimous vote of a quorum, ~~t~~The rule preempts,
8 modifies, and voids any provision of an agreement previously approved by the
9 commission that is inconsistent with the rule.

10 **(b) Amendment effective at end of term of agreement.** If a rule is approved without
11 complying with the procedures required in subsection (a), the rule becomes effective
12 immediately for all nonexclusively represented employees, but becomes effective for
13 employees covered by a collective bargaining agreement and parties to the agreement only
14 when the current approved term of the agreement expires.

15 6-3.7 Application of Civil Service Rules and Regulations *[No*
16 *Change]*

17 6-3.8 Civil Service Staff Neutrality *[No Change]*

18 6-3.9 Limitations on Term of Collective Bargaining Agreements
19 *[No Change]*

20 6-3.10 Union Leave *[No Change]*

25 9-1 Definitions

26 Unless the context clearly provides otherwise, the following terms in the civil service rules and
27 regulations are defined as follows:

28 * **

29 Rule of General Applicability

30 ***Rule of general applicability*** means a civil service rule that applies equally to all similarly
31 situated classified employees and without distinction between eligible positions and
32 nonexclusively represented positions.

34 *[End of Proposal 1]*

PROPOSAL 2 — Repeal Rule 6-3.6

Rev A (December 5, 2007)

Added text is double underlined. Deleted text is ~~struck through~~.

6-2 Employee-Employer Relations Systems

6-2.1 Collective Bargaining Authorized

The civil service commission authorizes classified employees in eligible positions to organize, elect an exclusive representative, and negotiate with the employer over proper subjects of bargaining.

(a) Rights and obligations. The employer, employees, and exclusive representatives have the rights and obligations provided in the civil service rules and regulations.

(b) Subjects of bargaining. The employer and the exclusive representative are required to bargain in good faith over mandatory subjects of bargaining. The employer may, but is not required to, negotiate over permissive subjects of bargaining. A party cannot bargain over prohibited subjects of bargaining.

(c) Intent; retention of authority. The civil service commission intends to defer to and approve collective bargaining agreements negotiated in good faith between the employer and an exclusive representative when permitted by this chapter. However, the commission is obligated to retain and exercise its constitutional authority in all matters. The commission expressly retains the authority to do all of the following:

(1) Review, modify, or reject, in whole or in part, each proposed collective bargaining agreement.

(2) ~~Approve rules of general applicability during the term of a collective bargaining agreement.~~

(3) ~~Determine, during the term of a collective bargaining agreement, if a provision previously approved has been applied or interpreted to violate or otherwise rescind, limit, or modify a civil service rule or regulation governing a prohibited subject of bargaining, notwithstanding any contrary provision of the agreement.~~

(d) Collective bargaining agreement as substitute rules. Each collective bargaining agreement approved by the civil service commission is expressly subject to and governed by the civil service rules and regulations. The approval of a collective bargaining agreement by the commission is a quasi-legislative act. The provisions of a collective bargaining agreement, when approved by the commission, become a subset of the civil

1 service rules governing rates of compensation and other conditions of employment for the
2 eligible employees in the applicable unit.

- 3 (e) **Collective bargaining agreement as a binding agreement.** An approved collective
4 bargaining agreement is binding only between the employer and the exclusive represen-
5 tative. A collective bargaining agreement is not binding on the civil service commission.

6 6-2.2 Limited-Recognition Organizations Authorized

7 The civil service commission authorizes classified employees in nonexclusively represented
8 positions to designate limited-recognition organizations to meet and confer with the employer
9 over rates of compensation and other conditions of employment and to represent members in
10 civil service grievance proceedings. The employer, employees, and the limited-recognition
11 organizations shall have the rights and obligations provided in the civil service rules and
12 regulations.

13 6-3 Commission Authority

14 6-3.1 Commission Relationship to Collective Bargaining

15 The ability of eligible employees to elect an exclusive representative and engage in collective
16 bargaining is a privilege granted by the civil service commission under its exclusive
17 constitutional authority. However, the commission cannot delegate its constitutional
18 responsibilities to the collective bargaining parties and the privilege to engage in collective
19 bargaining remains subject to the commission's sovereign authority and the rules of the
20 commission.

- 21 (a) **Review and approval required.** A collective bargaining agreement or any provision of a
22 collective bargaining agreement cannot take effect or be enforceable between the parties
23 unless the civil service commission has reviewed and approved the agreement or
24 provision.

- 25 (b) **Commission authority.** The civil service commission retains the authority to (1) approve,
26 modify, or reject, in whole or in part, a proposed collective bargaining agreement
27 presented to it for review and (2) to impose on the parties and eligible employees a
28 collective bargaining agreement as modified by the commission.

- 29 (c) **Modification of agreement during term.** Notwithstanding that the civil service
30 commission previously approved the provisions of a collective bargaining agreement, the
31 commission retains the authority, during the term of a collective bargaining agreement, to
32 modify the agreement without the approval of the parties, as provided in rules 6-3.5, ~~6-3.6,~~
33 and 6-3.~~89~~(c).

- 34 (d) **Effect of agreement on civil service commission.** The civil service commission
35 (including civil service staff) (1) is not a party to a collective bargaining agreement
36 approved by the commission; (2) does not become a party to the collective bargaining

agreement by virtue of the commission's review, approval, or modification; (3) is not subject to any of the provisions of a collective bargaining agreement; and (4) is not subject to the jurisdiction of an arbitrator or other fact-finder acting under authority of a collective bargaining agreement approved by the commission.

6-3.2 Prohibited Subjects of Bargaining

(a) Prohibitions.

* * *

(b) Prohibited subjects of bargaining. The civil service authority, policy, rules, regulations, procedures, and practices governing or regulating any of the following are prohibited subjects of bargaining:

* * *

(11) Union leave. The requirements and limitations on union leave in rule 6-3.940(c).

* * *

6-3.3 Incorporation by Reference *[No Change]*

6-3.4 Modification after Approval

A primary or secondary collective bargaining agreement approved by the civil service commission remains in effect between the parties during its approved term, unless otherwise amended by the commission during its term as provided in rules 6-3.5, ~~6-3.6~~, or 6-3.89(c). An amendment to an existing collective bargaining agreement is a quasi-legislative act.

6-3.5 Modification of Agreement or Arbitrator's Decision *[No Change]*

~~6-3.6 — Rules of General Applicability during Term of Agreement~~

~~The civil service commission retains the authority to approve rules of general applicability during the term of any collective bargaining agreement and to apply the rule immediately to all classified employees, including employees covered by the agreement and parties to the agreement, notwithstanding any contrary provision of the agreement.~~

~~(a) Rule effective during term of agreement. During the term of a collective bargaining agreement, a rule of general applicability may become immediately effective as to the employees covered by the agreement and the parties to the agreement if the following procedures are complied with:~~

~~(1) Notice of pending rule. The state personnel director shall issue a prior written notice to the state employer and the exclusive representatives. The notice must state that the~~

~~proposed rule of general applicability, if approved by the civil service commission, may become immediately effective as to all employees covered by the agreement and parties to the agreement, notwithstanding any contrary provision of the agreement. The notice must provide at least 14 calendar days advance notice, as provided in rule 1-1.1 [Circulation of Proposed Amendments for Comment].~~

~~(2) Meet and discuss.~~ The parties to a collective bargaining agreement potentially affected by a proposed rule of general applicability may meet and discuss the proposed rule and may jointly or separately advise the civil service commission regarding the proposed rule.

~~(3) Approval of rule.~~ When the civil service commission approves a rule of general applicability, the commission shall approve a separate resolution that the rule is immediately effective as to all employees covered by a collective bargaining agreement and parties to the agreement, notwithstanding any contrary provision of the agreement. The rule preempts, modifies, and voids any provision of an agreement previously approved by the commission that is inconsistent with the rule.

~~(b) Amendment effective at end of term of agreement.~~ If a rule is approved without complying with the procedures required in subsection (a), the rule becomes effective immediately for all nonexclusively represented employees, but becomes effective for employees covered by a collective bargaining agreement and parties to the agreement only when the current approved term of the agreement expires.

6-3.~~67~~ Application of Civil Service Rules and Regulations
[Renumbered Only]

6-3.~~78~~ Civil Service Staff Neutrality *[Renumbered Only]*

6-3.~~89~~ Limitations on Term of Collective Bargaining Agreements
[Renumbered Only]

6-3.~~940~~ Union Leave *[Renumbered Only]*

9-1 Definitions

Unless the context clearly provides otherwise, the following terms in the civil service rules and regulations are defined as follows:

* **

1 ~~Rule of General Applicability~~

2 ~~**Rule of general applicability** means a civil service rule that applies equally to all similarly~~
3 ~~situated classified employees and without distinction between eligible positions and~~
4 ~~nonexclusively represented positions.~~

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7 *[End of Proposal 2]*